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U.S. DISTRICT COURT

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1 UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF TEXAS - BEAUMONT  
3 BEAUMONT DIVISION

BY Dewey Lyons

4 UNITED STATES OF AMERICA ) CRIMINAL DOCKET NO.  
5 ) 1:94-cr-12 (2)  
6 )  
7 )

8 VS ) BEAUMONT, TEXAS  
9 )  
10 )  
11 ANDRE DONNELL ROUTT, A/K/A )  
12 ANDREW JOHNSON (2), ) AUGUST 19, 1994  
13 DEFENDANT ) 4:20 P.M.

14 \*\*\*\*\*  
15 TRANSCRIPT OF SENTENCING  
16 BEFORE THE HONORABLE HOWELL COBB  
17 UNITED STATES DISTRICT JUDGE  
18 \*\*\*\*\*

19 APPEARANCES:

20 FOR THE GOVERNMENT: MALCOM BALES  
21 A.U.S.A.  
22 350 MAGNOLIA, SUITE 150  
23 BEAUMONT, TX 77701  
24

25 FOR THE DEFENDANT: DENISE M. BENSON  
FEDERAL PUBLIC DEFENDER  
300 WILLOW, SUITE 227  
BEAUMONT, TX 77701  
26

27 COURT REPORTER: WENDELL R. PARKS, CP, CM  
28 FEDERAL COURT REPORTER  
29 ROOM 217 FEDERAL COURTHOUSE  
30 300 WILLOW  
31 BEAUMONT, TEXAS 77701  
32

33 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY;  
34 TRANSCRIPT PRODUCED BY COMPUTER.  
35

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1 AUGUST 19, 1994

4:20 P.M.

2 THE COURT: MR. ANDRE ROUTT.

3 HAVE YOU HAD AN OPPORTUNITY TO REVIEW YOUR  
4 PRESENTENCE INVESTIGATION REPORT, MR. ROUTT?

5 THE DEFENDANT: YES, SIR.

6 THE COURT: AND MS. BENSON?

7 MS. BENSON: YES, YOUR HONOR.

8 THE COURT: I'M GOING TO TAKE UP THE OBJECTIONS  
9 IN A FEW MOMENTS, BUT BEFORE I DO, ARE THERE ANY  
10 AMENDMENTS, SUGGESTIONS, CORRECTIONS, ADDITIONS THAT YOU  
11 WISH TO MAKE?

12 MS. BENSON: AS REGARDING MY OBJECTIONS OR JUST  
13 REGARDING THE PRESENTENCE REPORT?

14 THE COURT: NO. NO, REGARDING THE REPORT.

15 MS. BENSON: NO, YOUR HONOR.

16 THE COURT: OR YOU, MR. ROUTT?

17 THE DEFENDANT: NO, SIR.

18 THE COURT: THE DEFENDANT AS TO THE FIRST  
19 OBJECTION OBJECTS TO PARAGRAPHS ELEVEN, TWELVE, THIRTEEN,  
20 FOURTEEN, EIGHTEEN, TWENTY-THREE AND THIRTY-FOUR, WHEREIN  
21 RELEVANT CONDUCT IS CONSIDERED FROM 1987 TO '89, TWO TO  
22 FOUR YEARS BEFORE THE ALLEGED CONSPIRACY BEGAN IN JANUARY  
23 OF 1991, AND THE DEFENDANT MAINTAINS THE USE OF THIS  
24 INFORMATION SHOULDN'T BE CONSIDERED, THAT IS, AS IT'S NOT  
25 WITHIN THE MEANING OF THE UNITED STATES SENTENCING

1           GUIDELINE, SECTION 1(B)(1.3)(A)(2).

2           VARIOUS CASE LAW IS CITED CONCERNING THE  
3           DEFENDANT'S ARGUMENT ABOUT HIS DRUG ACTIVITY PRIOR TO  
4           1991 NOT BEING RELEVANT.

5           THE GUIDELINES, PARAGRAPH 1(B)(1.3)(A)(2),

6           PROVIDE THAT THE OFFENSE LEVEL ADJUSTMENT SHALL BE  
7           DETERMINED ON THE BASIS OF ALL ACTS COMMITTED BY THE  
8           DEFENDANT THAT OCCURRED DURING THE COMMISSION OF THE  
9           OFFENSE OF CONVICTION OR IN PREPARATION.

10           THE COMMENT NOTE 9 PROVIDES FACTORS THAT ARE  
11           APPROPRIATE TO THE DETERMINATION OF WHETHER OFFENSES ARE  
12           SUFFICIENTLY CONNECTED OR RELATED TO EACH OTHER TO BE  
13           CONSIDERED AS A PART OF THE SAME COURSE OF CONDUCT, TO  
14           INCLUDE THE DEGREE OF SIMILARITY OF THE OFFENSES AND THE  
15           TIME INTERVAL.

16           THE DEFENDANT DOES NOT DENY THAT HE WAS  
17           INVOLVED IN DRUG TRANSACTIONS FROM 1987 UP TO 1991, WHICH  
18           IS THE DATE MENTIONED IN THE OFFENSE OF CONVICTION. HE  
19           MERELY MAINTAINS IT'S NOT RELEVANT TO THIS OFFENSE.

20           IN 1987 THE DEFENDANT DEVELOPED A DRUG BUSINESS  
21           WITH SEVERAL INDIVIDUALS, INCLUDING DELVIN LIVINGSTON.  
22           THE DEFENDANT'S DRUG SPREE HAS BEEN GOING ON SINCE THAT  
23           YEAR.

24           WHILE THE DEFENDANT ATTEMPTS TO SEPARATE HIS  
25           PRIOR DRUG TRANSACTIONS WITH THE OFFENSE OF CONVICTION BY

1 MAINTAINING THAT THE PRIOR BEHAVIOR OCCURRED FOUR YEARS  
2 BEFORE THE INVOLVEMENT IN THIS MATTER, THAT CONTENTION  
3 ISN'T TRUE.

4 THE DEFENDANT CONTINUOUSLY DEALT DRUGS BY WAY  
5 OF COOKING CRACK COCAINE OR DISTRIBUTING CRACK COCAINE OR  
6 POWDER COCAINE FROM 1987 UNTIL THE DATE THAT HE WAS  
7 IMPRISONED.

8 THE DEFENDANT WAS INCARCERATED FROM JULY 10,  
9 1990, IN THE STATE PRISON SYSTEM, AND WAS RELEASED SEVEN  
10 MONTHS LATER ON FEBRUARY 15, 1991, AND ACCORDING TO  
11 LIVINGSTON, AS WELL AS THE FACTS OF THIS CASE, THE  
12 DEFENDANT BEGAN DEALING DRUGS IMMEDIATELY FOLLOWING HIS  
13 RELEASE FROM IMPRISONMENT, AND AS SUCH, THE ONLY TIME  
14 LAPSE THERE'S BEEN SINCE MAY, 1987, TO MAY, 1992, WAS A  
15 SEVEN MONTH PERIOD OF INCARCERATION.

16 CONSIDERING HIS HEAVY DRUG ACTIVITY BEFORE  
17 IMPRISONMENT, AS WELL AS AFTERWARDS, IT'S REASONABLE TO  
18 ASSUME THAT HAD HE NOT BEEN INCARCERATED HE WOULD HAVE  
19 STILL BEEN DEALING DRUGS. SO, THE EVIDENCE TENDS TO  
20 SATISFY THE REQUIREMENTS OF TEMPORAL PROXIMITY.

21 ALL OF MY FINDINGS, RULINGS ON THE PRESENTENCE  
22 INVESTIGATION REPORT AND THE OBJECTIONS THERETO ARE BASED  
23 UPON A PREPONDERANCE OF THE EVIDENCE BEFORE ME AND ON THE  
24 TRIAL, MY RECOLLECTION OF THE RECORD IN THE TRIAL OF THE  
25 CASE, AND UPON THE PRESENTENCE INVESTIGATION REPORT,

1 WHICH HAS SUFFICIENT INDICIA OF RELIABILITY AND  
2 TRUSTWORTHINESS THAT I CAN AND DO FIND THAT IT'S PROBABLY  
3 ACCURATE, AND I ADOPT IT AND I FIND THAT IT IS CORRECT.

4 NOW, REGARDING SIMILARITY AND REGULARITY, WHILE  
5 THE DEFENDANT MAINTAINS THAT THE PLAYERS AND THE TYPES OF  
6 DRUGS IN THE PREVIOUS ACTIVITY WERE DIFFERENT FROM THE  
7 PLAYERS AND THE DRUGS IN THE OFFENSE OF CONVICTION, THIS  
8 ALSO IS NOT TRUE.

9 BEFORE THE INDICTMENT, THE DEFENDANT'S  
10 ACTIVITIES INCLUDED NUMEROUS PARTICIPANTS, SOME OF WHOM  
11 ARE THE SAME INDIVIDUALS LISTED IN THE INDICTMENT.

12 FOR INSTANCE, AT DIFFERENT TIMES FROM '87 TO  
13 '90 THE DEFENDANT PARTICIPATED IN DRUG TRANSACTIONS WITH  
14 LIVINGSTON, TIFFANY SHEPHARD, EDDIE GARCIA, MARIA LOPEZ,  
15 GERALD DUFFY, TONY BERRY AND OTHER INDIVIDUALS IN  
16 HOUSTON, WACO AND IN MISSISSIPPI.

17 ACCORDING TO DELVIN LIVINGSTON, AS WELL AS THE  
18 DEFENDANT, ALL OF THE INDIVIDUALS JUST NAMED WERE ALSO  
19 PARTICIPANTS IN HIS ACTIVITIES FROM JANUARY OF '91 TO MAY  
20 OF 1992, THE TIME FRAME LISTED IN THE INDICTMENT.

21 REGARDING THE SUBSTANCE AS BEING DIFFERENT,  
22 DELVIN LIVINGSTON ADVISED THAT THEY'VE ALWAYS SOLD CRACK  
23 COCAINE AND POWDER COCAINE.

24 INFORMATION IN THE PRESENTENCE REPORT INDICATES  
25 THAT DURING THE TIME DELVIN LIVINGSTON ASSISTED ANDREW

1           ROUTT AND "BONNIE BOO" IN THEIR OPERATIONS, AT LEAST  
2           FIFTEEN PERCENT OF THOSE CONTROLLED SUBSTANCES WHICH WERE  
3           DISTRIBUTED WAS POWDER COCAINE AND EIGHTY-FIVE PERCENT  
4           WAS CRACK COCAINE.

5           AS WELL, DELVIN LIVINGSTON MAINTAINS THAT HE,  
6           THE DEFENDANT AND EDDIE GARCIA WERE PARTNERS.

7           ALTHOUGH LIVINGSTON AND GARCIA DISTRIBUTED  
8           MOSTLY POWDER COCAINE, THE DEFENDANT STILL DISTRIBUTED  
9           CRACK COCAINE.

10           WHILE IT'S TRUE THAT LIVINGSTON DID NOT TESTIFY  
11           TO CERTAIN THINGS AT TRIAL, IT'S NOTED THAT HE WAS NEVER  
12           ASKED SPECIFIC QUESTIONS BY EITHER THE PROSECUTION OR  
13           DEFENSE REGARDING THE VARIOUS MATTERS THAT THE DEFENDANT  
14           HAS OBJECTED TO IN THE PRESENTENCE REPORT.

15           THE PROBATION OFFICER HAS REQUIRED ABOUT THESE  
16           SPECIFICS DURING THE PRESENTENCE INTERVIEW TO FIND OUT  
17           UNDER THE GUIDELINES WHAT THE PERTINENT AND RELEVANT  
18           FACTS WERE.

19           SENTENCING JUDGES ARE NOT RESTRICTED TO  
20           INFORMATION THAT WOULD BE ADMISSIBLE AT TRIAL AND ANY  
21           INFORMATION WHICH MAY BE CONSIDERED UNDER THE GUIDELINES.  
22           AS LONG AS IT HAS SUFFICIENT INDICIA OF RELIABILITY AND  
23           TRUSTWORTHINESS TO SUPPORT ITS PROBABLE ACCURACY, THEN  
24           THE JUDGE CAN ADOPT IT AND USE IT AND FIND THAT IT'S  
25           CORRECT.

1                   RELIABLE HEARSAY MAY BE CONSIDERED IN A  
2 PRESENTENCE INVESTIGATION REPORT IN ASSESSING A SENTENCE,  
3 WHILE IT MIGHT NOT BE ADMISSIBLE IN COURT.

4                   I FIND THAT THE DEFENDANT'S DRUG ACTIVITY  
5 STEMMING FROM 1987 TO THE MID-1990S IS RELEVANT CONDUCT  
6 AND IS TO BE CONSIDERED FOR THE PURPOSES OF THE  
7 DEFENDANT'S GUIDELINE SENTENCING RANGE.

8                   SPECIFICALLY, THE COURT DETERMINES AND FINDS  
9 THAT THE EQUIVALENT OF 4363.40 KILOGRAMS OF COCAINE  
10 POWDER CAN BE AND IS ATTRIBUTED TO THE DEFENDANT, AS THIS  
11 IS THE DRUG BEHAVIOR THAT OCCURRED PRIOR TO 1991.

12                  AND I FIND FURTHER THAT THIS RELEVANT CONDUCT  
13 PASSES THE TEST OF SIMILARITY, REGULARITY AND TEMPORAL  
14 PROXIMITY.

15                  AND I FIND THAT THE INFORMATION PROVIDED BY  
16 DELVIN LIVINGSTON AND OTHERS, BUT PARTICULARLY  
17 LIVINGSTON, REGARDING THE DEFENDANT'S PRIOR RELATED DRUG  
18 ACTIVITY, HAS SUFFICIENT INDICIA OF RELIABILITY AND  
19 TRUSTWORTHINESS TO SUPPORT AND TO INDICATE TO THIS COURT  
20 ITS PROBABLE ACCURACY, AND IT IS TO BE USED IN  
21 CALCULATING THE DEFENDANT'S GUIDELINE IMPRISONMENT RANGE.

22                  AND THEREFORE, OBJECTION NUMBER ONE IS IN ALL  
23 THINGS OVERRULED AND DENIED.

24                  MR. BALES: YOUR HONOR, IF I MIGHT INTERRUPT  
25 JUST A MOMENT, IT DOESN'T HAVE ANY IMPACT OR IMPORT AS TO

1       YOUR RULING, BUT I NOTICED IN THE RESPONSE TO THE  
2       OBJECTION THAT IT'S LISTED THAT TONY BERRY PARTICIPATED  
3       IN DRUG TRANSACTIONS FROM '87 TO '90. WHETHER MR.  
4       ARMSTRONG MISUNDERSTOOD LIVINGSTON OR HE MISSPOKE, I DO  
5       NOT BELIEVE THAT THAT IS ACCURATE.

6           IT DOESN'T REALLY MATTER I DON'T THINK AS TO  
7       THE COURT'S RULING, BUT BERRY TESTIFIED, AND I BELIEVE  
8       THAT HE WOULD NOT HAVE BEEN INVOLVED WITH ANDREW ROUTT OR  
9       THESE PEOPLE UNTIL 1991.

10          THE COURT: WELL, THAT MAY BE TRUE AS TO BERRY.

11          MR. BALES: YES, SIR.

12          THE COURT: BUT IT ISN'T TRUE AS TO LIVINGSTON  
13        AND GARCIA.

14          MR. BALES: CORRECT. I JUST WANTED THE RECORD --

15          THE COURT: ALL RIGHT.

16          MR. BALES: I DON'T WANT THERE TO BE ANY  
17        SITUATION WHERE THAT MIGHT --

18          THE COURT: I'M NOT RELYING ON BERRY BECAUSE  
19        BERRY'S TESTIMONY IS DIFFERENT THAN, I MEAN, EACH OF  
20        THEM, THAT IS, GARCIA, DUFFY, BERRY, AND I DON'T KNOW  
21        WHETHER -- KING IS STILL ON APPEAL I BELIEVE.

22          MR. BALES: YES, SIR. I JUST --

23          THE COURT: I CONSIDER ALL OF THEM IN THEIR  
24        TOTALITY, NOT TRYING TO ASSIGN A SPECIFIC PERIOD OF TIME  
25        THAT EACH WITNESS TESTIFIED TO, AND TO THE EXTENT THAT BY

1 MENTIONING BERRY THAT IT EXTENDED PRIOR TO 1991 AND BERRY  
2 SAYS NO, THEN, OF COURSE, YOU'RE CORRECT ON THAT.

3 BUT AS TO THE OTHERS, YES, THERE IS -- IT DOES  
4 CONNECT HIM UP FROM '87 FORWARD, TO WHEN THE CONSPIRACY  
5 WAS ENDED.

6 MR. BALES: YES, SIR. SO THAT I AM CLEAR, THE  
7 GOVERNMENT'S POSITION IS, WE AGREE WITH THE COURT'S  
8 RULING, I JUST -- INSOFAR AS BERRY BEING SOMEONE WHO  
9 DEALT WITH MR. ROUTT AT THAT TIME, I THINK THAT'S A  
10 MISTAKE, AND I WANTED TO MAKE THAT CLEAR.

11 THE COURT: ALL RIGHT. THE DEFENDANT OBJECTS  
12 TO PARAGRAPH THIRTY-FIVE, WHERE HE'S GIVEN A TWO-LEVEL  
13 ENHANCEMENT FOR POSSESSING A FIREARM. THE DEFENDANT  
14 ADVISES THAT THERE WAS NO TESTIMONY AT TRIAL ACCUSING HIM  
15 OF POSSESSING A FIREARM.

16 THE 1989 AGGRAVATED ASSAULT CONVICTION, WHICH  
17 INVOLVED A FIREARM, SHOULD NOT BE CONSIDERED THE DEFENDANT  
18 SAYS, AS HE WAS PUNISHED FOR THE SAME AND THE INCIDENT  
19 DID NOT INVOLVE DRUGS.

20 THE DEFENDANT ALSO OBJECTS TO PARAGRAPH  
21 THIRTY-SEVEN, WHERE HE'S GIVEN A FOUR-LEVEL ENHANCEMENT  
22 FOR HAVING A LEADERSHIP ROLE. HE CONTENDS THAT DELVIN  
23 LIVINGSTON WAS THEIR MAIN LEADER AND THAT HE DELIVERED  
24 ALL THE MONEY AND ALL THE BUYING OF THE DRUGS.

25 SINCE LIVINGSTON WAS THE MASTERMIND, AS THE

1 DEFENDANT SAYS, HE FEELS THAT HE SHOULD RECEIVE A  
2 TWO-LEVEL ENHANCEMENT ONLY.

3 JUST A MOMENT.

4 MR. ARMSTRONG --

5 PROBATION OFFICER: YES, SIR.

6 THE COURT: WILL YOU EXCUSE ME A MOMENT? I  
7 WANT TO CONFER WITH MR. ARMSTRONG.

8 (OFF-THE-RECORD DISCUSSION BETWEEN THE COURT  
9 AND THE PROBATION OFFICER)

10 THE COURT: IF A DANGEROUS WEAPON UNDER THE  
11 GUIDELINES, 2(B)(1.1)(B)(1), IS POSSESSED, THE GUIDELINES  
12 REQUIRE THE GUIDELINE TOTAL TO BE INCREASED BY TWO  
13 LEVELS.

14 CONCERNING THE COURSE OF CONDUCT AS TO  
15 LIVINGSTON BEING THE MASTERMIND AND SO ON, I'VE ALREADY  
16 MADE A FINDING ON THIS POINT AS TO WHETHER THE PRIOR  
17 ACTIVITIES ARE RELATED TO THE OFFENSE OF CONVICTION.

18 THE DEFENDANT'S ASSAULT IN 1989 PROVES HE  
19 POSSESSED GUNS DURING THE CONSPIRACY. ALTHOUGH IT DIDN'T  
20 INVOLVE A DRUG TRANSACTION, CERTAINLY THE DEFENDANT  
21 NEVERTHELESS HAD A FIREARM.

22 HIS DRUG DEALING SEEMS TO HAVE BEEN ROUTT'S  
23 LIVELIHOOD, BY THE EVIDENCE OF HIS LACK OF PREVIOUS  
24 EMPLOYMENT. IT'S REASONABLE TO ASSUME THAT HE POSSESSED  
25 GUNS DURING MOST OF THE DRUG DEALS. IN FACT, HE

1 POSSESSED A FIREARM ON NOVEMBER 12, 1988, WHEN HE WAS  
2 ARRESTED FOR UNLAWFULLY CARRYING A WEAPON AND POSSESSION  
3 OF DRUGS.

4 NOW, MORE TO THE POINT, LIVINGSTON MAINTAINS HE  
5 SOLD THE DEFENDANT A NINE MILLIMETER FIREARM IN 1991,  
6 WHICH WAS DURING THE TIME FRAME OF THE OFFENSE OF  
7 CONVICTION.

8 EVEN IF THE DEFENDANT DID NOT PURCHASE A NINE  
9 MILLIMETER HANDGUN, HE ADMITTED IN THE PRESENTENCE  
10 INTERVIEW WITH THE PROBATION OFFICER THAT LIVINGSTON  
11 CARRIED A NINE MILLIMETER GUN AT SOME POINT.

12 AS A DEADLY WEAPON WAS POSSESSED BY HIS  
13 CO-DEFENDANT, ENHANCEMENT WOULD BE APPLICABLE TO THIS  
14 DEFENDANT, AS IT WAS REASONABLY FORESEEABLE TO ROUTT THAT  
15 LIVINGSTON POSSESSED A FIREARM DURING THEIR  
16 JOINTLY-UNDERTAKEN CRIMINAL ACTIVITY IN DRUG DEALING.

17 CONCERNING THE DEFENDANT'S ATTEMPT TO MINIMIZE  
18 HIS ROLE BY CHARACTERIZING DELVIN LIVINGSTON AS THE MAIN  
19 LEADER, THERE CAN BE AND OFTEN ARE MORE THAN ONE PERSON  
20 THAT CAN QUALIFY AS A LEADER OF AN ORGANIZATION OR A  
21 CRIMINAL ASSOCIATION OR CONSPIRACY. THE COURT SHOULD  
22 CONSIDER THE EXERCISE OF DECISION-MAKING ABILITY, THE  
23 NATURE OF PARTICIPATION IN THE COMMISSION OF THE OFFENSE,  
24 THE RECRUITMENT OF ACCOMPLICES, THE CLAIMED RIGHT TO A  
25 LARGER SHARE OF THE FRUITS OF THE CRIME, THE DEGREE OF

1 PARTICIPATION AND PLANNING OR ORGANIZING THE OFFENSE, THE  
2 NATURE AND SCOPE OF THE ILLEGAL ACTIVITY, AND THE DEGREE  
3 OF CONTROL AND AUTHORITY THAT HE EXERCISED OVER OTHERS.

4 IN THIS CASE THE DEFENDANT WAS A FULL PARTNER,  
5 HE REAPED A THIRD SHARE OF THE FRUITS OF HIS CRIMES AND

6 WAS MADE PARTNER BECAUSE OF HIS CONNECTIONS IN  
7 DISTRIBUTING CONTROLLED SUBSTANCES. AS SUCH, HIS  
8 PARTICIPATION PLAYED A LARGE ROLE IN THE PLANNING AND  
9 ORGANIZING OF THE OFFENSE. THE OTHER TWO PARTNERS COULD  
10 NOT HAVE ACCOMPLISHED THE DISTRIBUTION ASPECT WITHOUT  
11 HIM.

12 IN ADDITION, THAT'S WHY THEY OFFERED HIM A  
13 PARTNERSHIP IMMEDIATELY UPON HIS RELEASE FROM  
14 IMPRISONMENT.

15 WHILE HE'S RIGHT, THEY HAD THE BUYING POWER AND  
16 THE DRUGS, THEY COULD DO NOTHING WITH THEM IF THEY HAD  
17 NOWHERE TO DISTRIBUTE THEM.

18 REGARDING THE RECRUITMENT OF ACCOMPLICES, THEY  
19 ALL SUPERVISED AT LEAST ONE MULE. AS SUCH, THE DEFENDANT  
20 SHARED EQUAL LEADERSHIP WITH EDDIE GARCIA AND DELVIN  
21 LIVINGSTON, AND THEY USED THE SERVICES OF AT LEAST ONE  
22 MULE, TIFFANY SHEPHARD, WHO WAS ANOTHER ONE OF THEIR  
23 CONNECTIONS, AS WELL AS NUMEROUS BUYERS.

24 AND I FIND THE PROBATION OFFICER WAS CORRECT IN  
25 ENHANCING THE DEFENDANT'S LEVEL BY TWO PURSUANT TO THE

1 DEFENDANT'S POSSESSING A FIREARM DURING THE OTHERWISE  
2 EXTENSIVE CRIMINAL ACTIVITY, AND THAT THE PROBATION  
3 OFFICER WAS ALSO CORRECT IN ENHANCING THE DEFENDANT'S  
4 LEVEL BY FOUR AS A RESULT OF HIS ROLE IN THIS OTHERWISE  
5 EXTENSIVE CRIMINAL ACTIVITY.

6 THEREFORE, THAT OBJECTION IS DENIED AND  
7 OVERRULED.

8 I'LL MAKE MY FINDINGS FROM A PREPONDERANCE OF  
9 THE EVIDENCE NOW ON THE PRESENTENCE REPORT, AND THAT IS  
10 BASED UPON THE PRESENTENCE REPORT, THE EVIDENCE AT TRIAL,  
11 AND I FIND THAT THE PRESENTENCE REPORT IS BASED UPON  
12 INFORMATION OF SUFFICIENT RELIABILITY AND TRUSTWORTHINESS  
13 THAT I CAN AND DO ADOPT IT AND RELY UPON IT AND FIND THAT  
14 IT IS CORRECT.

15 PART "A", THE OFFENSE, CHARGES AND CONVICTIONS,  
16 CO-DEFENDANT INFORMATION, THE OFFENSE CONDUCT, IS CORRECT,  
17 AND I SO FIND, AND I FIND BY THE STANDARD THAT I EARLIER  
18 ANNOUNCED.

19 I FURTHER FIND THAT THERE ARE NO IDENTIFIABLE  
20 INDIVIDUAL VICTIMS OF THIS OFFENSE.

21 THE PROBATION OFFICER HAS NOT FURNISHED ANY  
22 INFORMATION TO SUGGEST THE DEFENDANT HAS IMPEDED OR  
23 OBSTRUCTED JUSTICE.

24 THERE IS NO ACCEPTANCE OF RESPONSIBILITY  
25 INVOLVED IN THIS CASE.

1                   THE 1993 EDITION OF THE GUIDELINES MANUAL HAS  
2                   BEEN USED IN THIS CASE, AND THE BASE OFFENSE LEVEL IS  
3                   FORTY-TWO.

4                   THE DEFENDANT IS ACCOUNTABLE FOR THE EQUIVALENT  
5                   OF 4513 KILOGRAMS OF COCAINE POWDER. 1500 KILOGRAMS OR  
6                   MORE OF COCAINE POWDER YIELDS A BASE LEVEL, BASE OFFENSE  
7                   LEVEL OF FORTY-TWO.

8                   SPECIFIC OFFENSE CHARACTERISTICS OF USING,  
9                   POSSESSING A DANGEROUS WEAPON INCREASES IT BY TWO, AS  
10                  INDICATED IN PARAGRAPH THIRTY-FIVE.

11                  THERE ARE NO VICTIM-RELATED ADJUSTMENTS.

12                  AS FOUND, WHICH I ADOPT, IN PARAGRAPH  
13                  THIRTY-SIX, THERE'S AN UPWARD ADJUSTMENT OF FOUR LEVELS  
14                  FOR ROLE IN THE OFFENSE, WHICH YIELDS A TOTAL OF  
15                  FORTY-EIGHT.

16                  THERE IS NO ADJUSTMENT FOR OBSTRUCTION OF  
17                  JUSTICE.

18                  THERE'S NO ADJUSTMENT FOR ACCEPTANCE OF  
19                  RESPONSIBILITY.

20                  THE TOTAL OFFENSE LEVEL IS FORTY-EIGHT.

21                  THERE ARE NO CHAPTER FOUR ENHANCEMENTS.

22                  THE TOTAL OFFENSE LEVEL IS FORTY-EIGHT.

23                  I FIND THAT PART "B", THE DEFENDANT'S CRIMINAL  
24                  HISTORY, IS CORRECT, IN THAT HE HAS TWO CONVICTIONS, AS  
25                  REFLECTED IN PARAGRAPH FORTY-FIVE AND IN PARAGRAPH

1 FORTY-SIX. THAT GIVES A SUBTOTAL OF FOUR.

2 AT THE TIME OF THE INSTANT OFFENSE THE  
3 DEFENDANT WAS ON PAROLE. UNDER THE GUIDELINE PROVISION  
4 OF 4(A)(1.1)(D), TWO POINTS ARE ADDED.

5 THE INSTANT OFFENSE WAS COMMITTED LESS THAN TWO  
6 YEARS FOLLOWING THE DEFENDANT'S RELEASE FROM CUSTODY.

7 UNDER THE GUIDELINE, 4(A)(1.1)(E), ONE POINT IS ADDED.

8 THEREFORE, THE TOTAL OF THE CRIMINAL HISTORY  
9 POINTS IS SEVEN, AND ACCORDING TO THE SENTENCING TABLE,  
10 SEVEN CRIMINAL HISTORY POINTS ESTABLISH A CRIMINAL  
11 HISTORY CATEGORY OF FOUR.

12 OTHER CRIMINAL CONDUCT WHICH IS REPORTED TO ME  
13 AS NOTED IN PARAGRAPH FIFTY-ONE, I FIND IT WAS CORRECT TO  
14 REPORT IT. IT DOES NOT PLAY ANY PART IN HIS CRIMINAL  
15 HISTORY CATEGORY, HOWEVER.

16 I FIND PART "C" AS TO HIS OFFENDER  
17 CHARACTERISTICS ARE CORRECT, AND I SO FIND AND ADOPT  
18 THOSE.

19 THE FINANCIAL CONDITION OR ABILITY TO PAY IS  
20 CORRECT.

21 I FIND THAT THE MINIMUM TERM IS TEN YEARS  
22 IMPRISONMENT. THE MAXIMUM TERM IS NOT MORE THAN LIFE.

23 BASED UPON A TOTAL OFFENSE LEVEL UNDER THE  
24 GUIDELINE PROVISIONS OF FORTY-EIGHT AND A CRIMINAL  
25 HISTORY CATEGORY OF FOUR, THE ONLY GUIDELINE IMPRISONMENT

1 RANGE IS LIFE IMPRISONMENT, AND THIS WILL RUN  
2 CONCURRENTLY WITH THE UNDISCHARGED STATE SENTENCE, AS THE  
3 LIFE SENTENCE REPRESENTS THE TOTAL PUNISHMENT  
4 IMPRISONMENT RANGE FOR ALL OFFENSES WHICH HAVE BEEN  
5 PROSECUTED FEDERALLY.

6 IN THE EVENT THAT THE DEFENDANT IN SOME MANNER  
7 IS RELEASED DURING THE TERM OF HIS NATURAL LIFE, A TERM  
8 OF SUPERVISED RELEASE IS REQUIRED IF ANY SENTENCE OF  
9 IMPRISONMENT IS IMPOSED. IT'S EITHER THREE YEARS BUT NOT  
10 GREATER THAN FIVE YEARS. SINCE FIVE YEARS IS IMPOSED BY  
11 STATUTE, THE TERM WILL BE FIVE YEARS.

12 THE DEFENDANT IS NOT ELIGIBLE FOR PROBATION,  
13 SINCE IT'S A CLASS "A" FELONY, BOTH STATUTORILY AND UNDER  
14 THE GUIDELINES.

15 THE MAXIMUM FINE IS FOUR MILLION DOLLARS.

16 A SPECIAL ASSESSMENT OF FIFTY DOLLARS IS  
17 MANDATORY.

18 THE GUIDELINE FINE RANGE IS FROM TWENTY-FIVE  
19 THOUSAND TO FOUR MILLION DOLLARS.

20 THERE ARE NO INDIVIDUAL VICTIMS OF THE OFFENSE.  
21 RESTITUTION IS NOT AN ISSUE.

22 UNDER THE STATUTE AND THE GUIDELINES, I MAY  
23 DENY CERTAIN ELIGIBILITY FOR THE DEFENDANT TO APPLY FOR  
24 OR RECEIVE CERTAIN FEDERAL BENEFITS FOR ANYONE CONVICTED  
25 OF DISTRIBUTION OR POSSESSION OF A CONTROLLED SUBSTANCE.

1                   THERE ARE NO FACTORS THAT HAVE BEEN FORWARDED  
2 TO ME WHICH WOULD WARRANT AN UPWARD, CERTAINLY NOT AN  
3 UPWARD, BUT A DOWNWARD DEPARTURE.

4                   I DO NOT KNOW WHETHER THE GOVERNMENT HAS  
5 FILED OR INDICATED WHETHER IT HAS FILED A 5(K)(1) OR NOT.

6                   MR. BALES: WE HAVE NOT, YOUR HONOR, BUT  
7 CONCERNING ANY FACTORS THAT THE COURT MIGHT CONSIDER --

8                   THE COURT: I UNDERSTAND THAT THERE WAS A -- I  
9 SIGNED AN ORDER OF ALTERNATIVE CUSTODY, AND THEREFORE, I  
10 WOULD PRESUME THAT THERE IS A POSSIBILITY OF A 35(B) IN  
11 THE FUTURE. I DO NOT KNOW. IF IT'S FILED, I'LL ACT ON  
12 IT.

13                  MR. BALES: WELL, WHATEVER IMPACT IT MAY HAVE  
14 ON THE COURT'S DECISION TODAY, YOUR HONOR, ALTHOUGH IT'S  
15 PREMATURE FOR US TO ASK FOR A FORMAL REDUCTION BASED ON  
16 5(K)(1), AND WE'RE NOT PREPARED TO PRESENT A RULE 35 AT  
17 THIS TIME, I WOULD WANT THE COURT TO KNOW THAT --

18                  THE COURT: WELL, YOU DON'T HAVE TO PUT IT IN  
19 THE RECORD.

20                  MR. BALES: RIGHT.

21                  THE COURT: BUT YOU DID ASK FOR ALTERNATIVE  
22 CUSTODY. I PRESUME THAT THIS COULD LEAD TO THE  
23 SUBSEQUENT FILING OF A 35(B), NOT NECESSARILY THAT YOU  
24 WILL, BUT IT COULD.

25                  MR. BALES: RIGHT. AND I ANTICIPATE, GIVEN THE

1 POSITIVE DEVELOPMENT SO FAR IN THAT AREA, THAT WE WILL  
2 PROBABLY BE SEEING THE COURT, AND I THINK THERE'S BEEN A  
3 REMARKABLE CHANGE IN THE RELATIONSHIP BETWEEN ROUTT AND  
4 THE GOVERNMENT, AND IT'S TO THE POSITIVE FROM OUR POINT  
5 OF VIEW. I DID WANT THE COURT TO KNOW THAT, THAT HE HAS  
6 EXPENDED SOME ENERGY AND DONE SOME THINGS WE'RE  
7 INTERESTED IN, AND WE APPRECIATE IT.

8 I WAS JUST GOING TO SAY THOUGH, OUR POSTURE  
9 WOULD BE THAT WE WOULD, IF IT'S APPROPRIATE WHEN IT'S  
10 RIPE, WE WILL ASK TO REVISIT THIS IN SOME SORT OF RULE 35  
11 RULING.

12 MS. BENSON: AND I JUST WANT TO SAY, I HAD  
13 SPOKEN WITH GARY HARRISON, I BELIEVE HE'S WITH THE DEA IN  
14 WACO, AND HE HAD CALLED TO SAY THAT HE WANTED TO BE  
15 PRESENT WITH THE COURT TODAY TO LET MR. ROUTT KNOW HOW  
16 SUPPORTIVE HE WAS OF HIM, BUT HE DID HAVE TO GET BACK TO  
17 WACO, AND IT WAS A FIVE-HOUR DRIVE, SO HE WASN'T ABLE TO  
18 STAY FOR THE SENTENCING.

19 THE COURT: WAIT A MINUTE. HE'S GOT LIGHTS AND  
20 ALL THAT SORT OF STUFF. HE COULD HAVE MADE IT BACK.

21 MS. BENSON: I THINK HE SAID HE HAD BEEN GONE A  
22 WEEK AND WANTED TO GET BACK HOME, BUT HE DID WANT TO LET  
23 ME KNOW THAT MR. ROUTT HAD BEEN COOPERATING, AND I  
24 BELIEVE HE WAS EVEN TAKEN TO WACO TO TESTIFY IN A TRIAL,  
25 BUT THAT TRIAL DID NOT GO FORWARD ON THAT DATE, AND THAT

1 HE HAS BEEN VERY COOPERATIVE.

2 BUT I AGREE WITH MR. BALES IN THE FACT THAT  
3 THEY'VE NOT FINISHED OR COMPLETED THEIR INVESTIGATION,  
4 HE'S STILL COOPERATING, AND THAT IT MAY BE PREMATURE NOW  
5 TO ASK FOR A 5(K)(1), BUT WE'RE VERY HOPEFUL THAT THERE  
6 WILL BE A RULE 35(B) BASED ON HIS COOPERATION AT THIS  
7 POINT.

8 THE COURT: ANYTHING YOU WISH TO SAY, MR.  
9 ROUTT?

10 THE DEFENDANT: WELL, YOU OVERRULED THE  
11 DECISION ON THE PRESENTENCE INVESTIGATION STEMMING FROM  
12 1987, WHEN I SUPPOSED TO HAVE BEEN A CO-CONSPIRATOR WITH  
13 MR. LIVINGSTON. I WAS NOT.

14 AND IT WAS IN THERE THAT I SUPPOSED TO HAVE  
15 COOKED AN OUNCE OR TWO FOR HIM AND RANDLE, BUT NOW IT  
16 INDICATES THAT I WAS A CONSPIRATOR, AND HE FORESEEN,  
17 BELIEVED THAT ME AND MR. RANDLE, ANOTHER MR. RANDLE, NOT  
18 THE ONE HE WAS TOGETHER WITH ON THE OUNCE OR TWO,  
19 DISTRIBUTED FORTY-TWO, WHICH WAS EIGHTY-FIVE PERCENT  
20 CRACK, WHICH THREWED ME UP TO THE FOUR THOUSAND AND  
21 SOMETHING KILOGRAMS OF COCAINE.

22 I JUST WANTED TO SAY THAT IF I WOULD HAVE KNOWN  
23 THAT THIS HERE WOULD HAVE BEEN ENHANCED ON MY BEHALF --

24 THE COURT: MULTIPLIED BY A HUNDRED.

25 THE DEFENDANT: YEAH. BUT THE FACT --

1                   THE COURT: CONVERT POWDER TO CRACK.

2                   THE DEFENDANT: I UNDERSTAND PARTLY WHY I WAS  
3 CONVICTED, BECAUSE HE HAD FOUR OTHER PEOPLE CORROBORATING  
4 THE SAME STORY, WHICH IS A REASON OF A DOUBT TO BELIEVE,  
5 BUT THERE WAS NO ONE TO CORROBORATE THIS STORY HERE, AND  
6 THE PRESENTENCE OFFICER JUST INDICATED TO ASK HIM THAT,  
7 AND THAT LET THAT STICK IN THERE, AND ABOUT THE GUN, YOU  
8 KNOW, AND I FEEL LIKE IT WAS IRRELEVANT.

9                   THE COURT: WELL, YOU HAD EVERY OPPORTUNITY TO  
10 TESTIFY. YOU DIDN'T TESTIFY. I DON'T KNOW WHETHER YOU  
11 WANTED TO AND YOUR COUNSEL ADVISED YOU AGAINST IT. I  
12 UNDERSTAND THAT YOU HAD CERTAIN OPTIONS BEFORE YOU WENT  
13 TO TRIAL THAT YOU REJECTED COMPLETELY.

14                  THERE'S NOTHING IN THE WORLD -- I MEAN, IT  
15 DOESN'T GIVE ME -- IF YOU THINK, IF ANYBODY THINKS IT  
16 GIVES ME ANY PLEASURE TO LOOK AT ANOTHER HUMAN BEING AND  
17 DETERMINE WHERE HE'S GOING TO SPEND TEN OR TWENTY OR  
18 THIRTY YEARS OR THE REST OF HIS LIFE, YOU'RE ABSOLUTELY  
19 WRONG. IT GIVES ME NO PLEASURE, ANDREW, NONE AT ALL.

20                  I SAID ANDREW --

21                  THE DEFENDANT: ANDRE.

22                  THE COURT: I HAVE A GRANDSON NAMED ANDREW. MY  
23 GRANDFATHER WAS NAMED ANDREW. SO, I'M FAMILIAR WITH THE  
24 NAME. THEY PUT A "W" ON IT THOUGH INSTEAD OF LIKE YOU  
25 DO.

1                   NO. THE HARDEST JOB ANY JUDGE HAS IS IMPOSING  
2                   A SENTENCE. BUT I DON'T PASS THE LAWS, I DON'T MAKE THEM.  
3                   IT'S GOING TO GET WORSE.

4                   THE DEFENDANT: YES, SIR.

5                   THE COURT: MAYBE, MAYBE NOT, BUT IT COULD WELL  
6                   GET WORSE INSOFAR AS THE AMOUNTS OF PUNISHMENT THAT ARE  
7                   METED OUT, AND WE'RE REQUIRED TO FOLLOW THE GUIDELINES.

8                   NOW, WHETHER THE GUIDELINES ARE A GOOD IDEA OR  
9                   A BAD IDEA IS IRRELEVANT. MY JOB, AND I'M REQUIRED TO DO  
10                  IT WHEN I TAKE THE JOB, IS TO ENFORCE THE LAWS ENACTED BY  
11                  THE CONGRESS.

12                  BEFORE 1987 THERE WEREN'T ANY GUIDELINES.  
13                  WELL, THERE WERE GUIDELINES OF A LOOSER SORT, BUT THEY  
14                  WEREN'T BINDING. AND BECAUSE THE JUDGES OF THE UNITED  
15                  STATES COURTS IN VARIOUS PLACES HAD ABSOLUTE DISCRETION  
16                  TO SENTENCE ANYBODY TO ANYTHING, UP TO THE MAXIMUM, THERE  
17                  WAS A WIDE DIFFERENCE FOR THE SAME ACTIVITY, ONE GUY  
18                  MIGHT GET A YEAR'S PROBATION AND SOMEBODY ELSE TEN YEARS  
19                  IN PRISON, I MEAN, IT WAS JUST UP TO THE JUDGE, AND IT  
20                  SEEMED TOO WIDE A DISPARITY. AND THEY DECIDED,  
21                  APPARENTLY UPON PRESSURE, OR WHAT THEY THOUGHT WAS  
22                  PRESSURE FROM THEIR CONSTITUENTS, THAT THERE OUGHT TO BE  
23                  A LITTLE BIT CLOSER REGULARITY.

24                  WHEN THEY GOT TO THAT POINT, AFTER A LEVEL  
25                  FORTY-THREE, I HAVE NO DISCRETION. IF I SENTENCE YOU TO

1 TWO HUNDRED MONTHS OR A HUNDRED MONTHS, HE CAN APPEAL,  
2 AND I WOULD ALMOST BE REVERSED BY FAX, IT WOULD BE THAT  
3 BAD.

4 I DON'T HAVE ANY RIGHT TO JUST SAY I WON'T  
5 ENFORCE THE GUIDELINES.

6 WHEN I SAY I WON'T ENFORCE THE LAW, I MIGHT AS  
7 WELL -- I HAVE AN OBLIGATION TO WALK OFF THIS BENCH AND  
8 LEAVE IT.

9 THE DEFENDANT: WELL, YOUR HONOR --

10 THE COURT: I'VE GOT TO ENFORCE IT, ANDRE, BUT  
11 IT DOESN'T GIVE ME ANY PLEASURE.

12 YOU'RE IN A POSITION NOW THAT -- I'LL JUST SAY  
13 THIS, THAT THIS SENTENCE WILL CERTAINLY FOCUS YOUR  
14 ATTENTION ON THE MATTERS AT HAND IN THE NEXT FEW MONTHS,  
15 AND I PERSONALLY HOPE THAT I GET AN OPPORTUNITY TO PASS  
16 ON A MOTION TO REDUCE IT. I HAVE NO AUTHORITY AS TO THE  
17 IMPOSITION OF SENTENCE NOW.

18 I WISH THAT THERE WASN'T SO MUCH, QUOTE, EASY  
19 MONEY IN DRUGS, AN EASY LIFE STYLE, AND THAT -- YOU KNOW  
20 LOTS OF PEOPLE THAT DO HONEST WORK AND THEY DON'T SEEM TO  
21 GET AHEAD. THEY DON'T EVER HAVE FRIENDS THAT ARE GOING  
22 TO GIVE THEM A JAG WHEN THEY GET OUT OF PRISON, BUT  
23 THEY'LL GIVE THEM SOME OTHER KIND OF SUPPORT, HELP, LOVE,  
24 SOMETHING LIKE THAT, BUT NO '88 JAG JUST FOR DRIVING  
25 HOME.

1                   THE MATERIAL POSSESSIONS THAT YOU ONCE ENJOYED,  
2 THEY'RE GONE, YOU KNOW THAT. I CAN'T EVEN IMPOSE A FINE  
3 ON YOU.

4                   THE DEFENDANT: YOUR HONOR, THE ONLY REASON I  
5 BRUNG UP THE ISSUE IS THAT IN THE PRESENTENCE  
6 INVESTIGATION I READ A HUNDRED AND FIFTY KEYS, AND I  
7 SAID, WELL, THAT'S WHAT THEY HAD INFORMATION ON, PEOPLE  
8 CORROBORATED THAT, BUT I LOOKED BACK AND I SEE THAT IN  
9 '87 MR. LIVINGSTON INDICATED THAT IT WAS DRUGS THAT I WAS  
10 DEALING, HE WAS A CO-CONSPIRATOR WITH ME THEN, WHICH HE  
11 WASN'T, AND THAT'S THE SAME FILING THAT MADE ME UP TO  
12 FOUR THOUSAND AND SOME KILOGRAMS OF COCAINE, WHICH WAS A  
13 MANDATORY LIFE SENTENCE JUST ABOUT, OR IS, AND THAT'S WHY  
14 IT'S KIND OF HARD FOR ME TO ACCEPT IT.

15                  AND THEN HE COME UP AGAIN AND SAY HE SOLD ME A  
16 GUN, BUT NONE OF THESE THINGS WAS MENTIONED IN TRIAL, AND  
17 IT WAS JUST BLOWED ALL OUT OF PROPORTION, FROM A HUNDRED  
18 KILOS, WHICH THEY WASN'T SURE ABOUT THAT. YOU KNOW, IT  
19 WASN'T --

20                  THE COURT: WELL, SEE, I HAVEN'T HEARD YOU  
21 ADMIT ANYTHING ABOUT YOUR RESPONSIBILITY YET, NOT FROM  
22 THE DAY THE JURY WAS SELECTED DOWN TO RIGHT NOW.

23                  I'M GOING TO PRONOUNCE SENTENCE NOW, MR. ROUETT.  
24                  PURSUANT TO THE SENTENCING REFORM ACT OF 1984,  
25 IT'S THE JUDGMENT OF THE COURT THAT THE DEFENDANT, ANDRE

1 DONNELL ROUTT, ALSO KNOWN AS ANDREW JOHNSON, IS HEREBY  
2 COMMITTED TO THE CUSTODY OF THE BUREAU OF PRISONS, TO BE  
3 IMPRISONED FOR A TERM OF LIFE.

4 THIS SENTENCE IS IMPOSED TO RUN CONCURRENT WITH  
5 THE DEFENDANT'S CURRENT STATE IMPRISONMENT.

6 IF RELEASED FROM IMPRISONMENT, THE DEFENDANT  
7 SHALL BE PLACED ON SUPERVISED RELEASE FOR A TERM OF FIVE  
8 YEARS.

9 WITHIN SEVENTY-TWO HOURS OF RELEASE FROM THE  
10 CUSTODY OF THE BUREAU OF PRISONS, THE DEFENDANT SHALL  
11 REPORT IN PERSON TO THE PROBATION OFFICE IN THE DISTRICT  
12 TO WHICH THE DEFENDANT HAS BEEN RELEASED.

13 WHILE ON SUPERVISED RELEASE, THE DEFENDANT  
14 SHALL NOT COMMIT ANOTHER FEDERAL, STATE OR LOCAL CRIME,  
15 SHALL COMPLY WITH THE STANDARD CONDITIONS THAT HAVE BEEN  
16 ADOPTED BY THIS COURT, AND SHALL COMPLY WITH THE  
17 FOLLOWING ADDITIONAL CONDITIONS:

18 THE DEFENDANT SHALL NOT ILLEGALLY POSSESS A  
19 CONTROLLED SUBSTANCE.

20 THE DEFENDANT SHALL NOT POSSESS A FIREARM OR  
21 OTHER DESTRUCTIVE DEVICE.

22 THE DEFENDANT SHALL PARTICIPTAE IN A PROGRAM OF  
23 TESTING AND TREATMENT FOR DRUG ABUSE AS DIRECTED BY THE  
24 PROBATION OFFICER UNTIL SUCH TIME AS THE DEFENDANT IS  
25 RELEASED FROM THE PROGRAM BY THE PROBATION OFFICER.

1                   IT'S FURTHER ORDERED THAT THE DEFENDANT SHALL  
2 PAY TO THE UNITED STATES A SPECIAL ASSESSMENT OF FIFTY  
3 DOLLARS.

4                   THE DEFENDANT IS DENIED ELIGIBILITY TO APPLY  
5 FOR OR RECEIVE FEDERAL BENEFITS FOR A PERIOD OF FIVE  
6 YEARS FROM THE DATE OF THIS JUDGMENT.

7                   THE DEFENDANT DOES NOT HAVE THE ABILITY TO PAY  
8 A FINE AND THE COURT WILL WAIVE A FINE IN THIS CASE.

9                   INVESTIGATION IN THIS CASE REVEALS THAT THE  
10 DEFENDANT HAS BEEN INVOLVED IN HEAVY DRUG TRAFFICKING  
11 SINCE THE MID-1980S. AUTHORITIES HAVE TRACKED HIS DRUG  
12 DEALINGS FROM 1987 TO MAY OF 1992.

13                  THE DEFENDANT WAS INCARCERATED IN 1990 AND  
14 RELEASED IN 1991. RELIABLE SOURCES INDICATE THE  
15 DEFENDANT CONTINUED HIS DRUG-DISTRIBUTION ACTIVITIES  
16 IMMEDIATELY FOLLOWING HIS RELEASE FROM INCARCERATION.

17                  THE DEFENDANT WAS INVOLVED IN SEVERAL DRUG  
18 CONSPIRACIES AND HELD DIFFERENT ROLES IN EACH.

19                  AS A RESULT OF HIS INVOLVEMENT WITH MULTIKILO  
20 QUANTITIES OF POWDER AND CRACK COCAINE, HIS MINIMUM  
21 GUIDELINE IMPRISONMENT RANGE IS LIFE.

22                  THIS TERM WILL APPROPRIATELY ADDRESS THE  
23 SENTENCING OBJECTIVES OF PUNISHMENT, GENERAL DETERRENCE  
24 AND INCAPACITATION.

25                  A FIVE YEAR PERIOD OF SUPERVISED RELEASE IS

1 MANDATED AND WILL ALLOW THE PROBATION OFFICER AND THE  
2 DEPARTMENT ADEQUATE TIME TO ADDRESS THE DEFENDANT'S  
3 SUPERVISION NEEDS.

4 NO FINE IS ORDERED, AS THE DEFENDANT DOES NOT  
5 HAVE THE ABILITY TO PAY A FINE.

6 YOU HAVE THE RIGHT TO APPEAL YOUR CONVICTION BY  
7 A JURY IN THIS CASE.

8 YOU HAVE THE RIGHT TO APPEAL THE SENTENCE WHICH  
9 HAS BEEN IMPOSED BY THIS COURT.

10 YOU HAVE THE RIGHT TO APPLY TO APPEAL THOSE IN  
11 FORMA PAUPERIS. IF YOU MAKE SUCH APPLICATION FOR THE  
12 APPEAL IN FORMA PAUPERIS, THE APPLICATION WILL BE ACTED  
13 ON PROMPTLY.

14 YOU'RE REMANDED TO THE CUSTODY OF THE UNITED  
15 STATES MARSHAL.

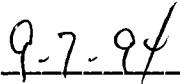
16 THIS COURT IS IN RECESS.

17 THE MARSHAL: ALL RISE.

18 (RECESS AT 5:02 P.M.)

19  
20 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT  
21 FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED  
22 MATTER.

23   
24 \_\_\_\_\_  
25 WENDELL R. PARKS, CP, CM

23   
24 \_\_\_\_\_  
25 DATE